

JFW



Attorney Docket No. GRAY033/00US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Teresa S. HEALY et al.

Serial No.: 10/638,554

Examiner: Unassigned

Confirmation No.: 5392

Art Unit: 3765

Filed: August 12, 2003

For: **EAR WARMER HAVING A MEMBRANE FORMING A RECEPTACLE**

U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

INFORMATION DISCLOSURE STATEMENT TRANSMITTAL

Enclosed is an Information Disclosure Statement and accompanying Form PTO/SB/08A for the above-identified patent application.

- ☒ In accordance with 37 C.F.R. §1.97(b), no additional fee for submission of the IDS is required.
- ☐ In accordance with 37 C.F.R. §1.97(c), also enclosed is:
 - ☐ the fee of \$180.00 as set forth in 37 C.F.R. §1.17(p); or
 - ☐ a statement as specified in 37 C.F.R. §1.97(e).
- ☐ In accordance with 37 C.F.R. §1.97(d), a statement as specified in 37 C.F.R. § 1.97(e) and the fee of \$180.00 as set forth in 37 C.F.R. §1.17(p) are also enclosed.
- ☐ Check in the amount of \$180.00 for the total fee is attached.
- ☒ A return receipt postcard is also enclosed.
- ☐ Please charge \$__ to Deposit Account No. 50-1283 for the total fee. This paper is being submitted in duplicate.

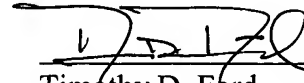
The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§1.16, 1.17, and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283.

Dated: JANUARY 11, 2005

Cooley Godward LLP
ATTN: Patent Group
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656
Tel: (703) 456-8000
Fax: (703) 456-8100

Respectfully submitted,
COOLEY GODWARD LLP

By:


Timothy D. Ford
Reg. No. 47,567



Attorney Docket No. GRAY033/00US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Teresa S. HEALY et al.

Serial No.: 10/638,554

Examiner: Unassigned

Confirmation No.: 5392

Art Unit: 3765

Filed: August 12, 2003

For: **EAR WARMER HAVING A MEMBRANE FORMING A RECEPTACLE**

U.S. Patent and Trademark Office
220 20th Street South
Customer Window, Mail Stop Amendment
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

**INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. §1.97(b)**

In accordance with the duty of disclosure set forth in 37 C.F.R. §1.56,
Applicant(s) hereby submits the following information in conformance with 37 C.F.R.
§§1.97 and 1.98.

- ☒ Pursuant to 37 C.F.R. §1.98, a copy of each foreign and non-patent document cited in the attached Form PTO/SB/08 is enclosed.
- ☐ No copies of the publications listed on the attached Form PTO/SB/08A are being provided pursuant to 37 C.F.R. §1.98(d) because the publications were previously cited by or submitted to the Office in prior Application Serial No. ____ to which the above-identified application claims priority under 35 U.S.C. §120.
- ☒ No copies of any U.S. patents or U.S. patent application publications listed on the attached Form PTO/SB/08A are enclosed.
- ☐ Publication(s) ____ listed on the attached Form PTO/SB/08A were cited in a foreign search or examination report corresponding to ____ application serial no. ____ and mailed on ____.
- ☐ Enclosed is a copy of a non-English publication(s) _____. Pursuant to §609 of the M.P.E.P., Applicant submits the attached foreign search or examination report, which cites such non-English language publication(s).

- ☐ Enclosed is a copy of a non-English publication(s) _____. English language publication ____ (copy enclosed) claims priority from this non-English publication.
- ☐ Enclosed is an explanation of non-English publication(s) _____ for which an English translation is not available.
- ☐ Enclosed is an English translation of non-English publication(s) _____ cited in the attached Form PTO/SB/08A.
- ☐ Enclosed is a copy of pending patent Application Serial No. _____.

This Information Disclosure Statement is filed within any one of the following time periods:

- ☐ within three months from the filing date of this national application other than a CPA under 37 C.F.R. § 1.53(d);
- ☐ within three months from the date of entry of the national stage as set forth in 37 C.F.R. §1.491 in this international application;
- ☒ before the mailing date of a first office action on the merits; or
- ☐ before the mailing of a first office action after the filing of a request for continued examination under 37 C.F.R. § 1.114.

It is respectfully requested that the Examiner consider the above-noted information and return an initialed copy of the attached Form PTO/SB/08A to the undersigned.

Dated: January 11, 2005

Cooley Godward LLP
ATTN: Patent Group
One Freedom Square
Reston Town Center
11951 Freedom Drive
Reston, VA 20190-5656
Tel: (703) 456-8000
Fax: (703) 456-8100

Respectfully submitted,
COOLEY GODWARD LLP

By:

Timothy D. Ford
Timothy D. Ford
Reg. No. 47,567

Please type a plus sign (+) inside this box →



PTO/SB/08A (08-00)

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>			Complete if Known		
			Application Number	10/638,554	
			Filing Date	August 12, 2003	
			First Named Inventor	Teresa S. Healy	
			Group Art Unit	3765	
			Examiner Name	Unassigned	
			Attorney Docket Number	GRAY033/00US	
Sheet	1	of	5		

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. ¹	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY
		Number	Kind Code ² (if known)		
	A1	1,179,473		Taylor	04-18-1916
	A2	1,274,842		Basch	08-1918
	A3	1,326,875		Miller	12-30-1919
	A4	1,398,958		Basch	12-06-1921
	A5	1,577,183		Dowiarz	03-16-1926
	A6	1,628,483		Wiegand et al.	05-10-1927
	A7	1,988,880		Strouse	01-22-1935
	A8	10/335,930		Le Gette et al.	01-03-2003
	A9	138,894		Isidor	05-13-1873
	A10	2,070,216		Rosenberg	02-09-1937
	A11	2,216,954		McDonough	10-08-1940
	A12	2,246,031		Baritz et al.	06-17-1941
	A13	2,314,782		Goretsky	03-23-1943
	A14	2,333,392		Rosenzweig	11-02-1943
	A15	2,378,398		Fiedler	06-19-1945
	A16	2,405,326		Plotsky	08-06-1946
	A17	2,420,245		Hurst	05-06-1947
	A18	2,532,852		Oaks	12-05-1950
	A19	2,582,907		Kaufmann	01-15-1952
	A20	2,586,644		Gilbert	02-19-1952
	A21	2,615,169		Maxant	10-28-1952
	A22	2,651,046		Berg	09-1953
	A23	2,671,221		Triplett	03-09-1954
	A24	2,717,930		Hintz	09-13-1955
	A25	2,776,436		Berg	01-1957
	A26	2,858,544		Roth	11-04-1958
	A27	2,899,683		Wadsworth et al.	08-18-1959
	A28	2003/0088905	AI	Bavetta et al.	05-15-2003
	A29	3,087,028		Bonnin	04-23-1963
	A30	3,112,493		Greenberg	12-03-1963
	A31	3,119,119		Millinger et al.	01-1964
	A32	3,156,923		Timm	11-17-1964
	A33	3,249,949		Rosenberg et al.	05-10-1966
	A34	3,308,480		Elder	03-14-1967
	A35	3,447,160		Teder	06-03-1969
	A36	3,509,580		Rubenstein et al.	05-05-1970
	A37	3,721,993		Lonnstedt	03-27-1973
	A38	3,728,741		Lepor, Meyer	04-1973
	A39	3,787,899		Krawagna	01-29-1974
	A40	3,841,325		Pickard	10-15-1974

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Unique citation designation number.

² See attached Kinds of U.S. Patent Documents.

Please type a plus sign (+) inside this box →

+

PTO/SB/08A (08-00)

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				<i>Complete if Known</i>	
				Application Number	10/638,554
				Filing Date	August 12, 2003
				First Named Inventor	Teresa S. Healy
				Group Art Unit	3765
				Examiner Name	Unassigned
Sheet	2	of	5	Attorney Docket Number	GRAY033/00US

	A41	3,944,018		Satory	03-16-1976
	A42	365,061		Friedman	06-1887
	A43	4,065,176		Fontana	12-27-1977
	A44	4,277,847		Florio	07-14-1981
	A45	4,349,081		Pepple	09-14-1982
	A46	4,391,000		Lonnstedt	07-05-1983
	A47	4,404,434		Pelt et al.	09-13-1983
	A48	4,409,442		Kamimura	10-11-1983
	A49	4,445,005		Furuhashi	04-24-1984
	A50	4,463,223		Yamanoi et al.	07-31-1984
	A51	4,471,496		Gardner, Jr. et al.	09-18-1984
	A52	4,486,903		Krystal	12-11-1984
	A53	4,516,274		Buckland	05-14-1985
	A54	4,542,803		Houng	09-24-1985
	A55	4,546,215		Ferraro	10-08-1985
	A56	4,571,746		Görke	02-25-1986
	A57	4,615,185		Bollinger	10-07-1986
	A58	4,633,530		Satterfield	01-06-1987
	A59	4,654,898		Ishikawa	04-07-1987
	A60	4,660,229		Harris	04-28-1987
	A61	4,662,590		Hungerford, Jr.	05-05-1987
	A62	4,669,129		Chance	06-02-1987
	A63	4,670,911		Dunford	06-09-1987
	A64	4,682,374		Geiser	07-28-1987
	A65	4,713,843		Duncan	12-22-1987
	A66	4,727,599		Rappaport et al.	02-23-1988
	A67	4,747,145		Wiegel	05-24-1988
	A68	4,776,042		Hanson et al.	10-11-1988
	A69	4,776,044		Makins	10-11-1988
	A70	4,783,822		Toole et al.	11-08-1988
	A71	4,791,684		Schwartz	12-20-1988
	A72	4,796,307		Vantine	01-10-1989
	A73	4,802,245		Miano	02-07-1989
	A74	4,858,248		Goldsmith et al.	08-22-1989
	A75	4,864,619		Spates	09-05-1989
	A76	4,872,219		Duncan	10-10-1989
	A77	4,907,266		Chen	03-06-1990
	A78	4,918,757		Janssen et al.	04-24-1990
	A79	4,982,451		Graham	01-08-1991
	A80	5,033,094		Hung	07-16-1991
	A81	5,038,412		Cionni	08-13-1991
	A82	5,052,194		Jarus	10-01-1991
	A83	5,086,789		Tichy	02-11-1992
	A84	5,117,464		Jones et al.	05-26-1992
	A85	5,117,465		MacDonald	05-26-1992
	A86	5,164,987		Raven	11-17-1992
	A87	5,201,856		Edwards	04-13-1993
	A88	5,257,420		Byrne, Jr.	11-02-1993
	A89	5,327,178		McManigal	07-05-1994
	A90	5,339,467		Brinkley	08-23-1994
	A91	5,357,585		Kumar	10-18-1994

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Please type a plus sign (+) inside this box →

+

PTO/SB/08A (08-00)

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				<i>Complete if Known</i>	
				Application Number	10/638,554
				Filing Date	August 12, 2003
				First Named Inventor	Teresa S. Healy
				Group Art Unit	3765
				Examiner Name	Unassigned
Sheet	3	of	5	Attorney Docket Number	GRAY033/00US

	A92	5,509,146		Bryerton, Sr.	04-23-1996
	A93	5,528,774		Sanders	06-1996
	A94	5,545,859		Ullrich	08-13-1996
	A95	5,551,089		Whidden	09-03-1996
	A96	5,551,090		Thompson	09-03-1996
	A97	5,617,589		Lacore et al.	04-08-1997
	A98	5,673,438		Lambert	10-07-1997
	A99	5,691,515		Landis	11-25-1997
	A100	5,718,001		Wright	02-17-1998
	A101	5,724,119		Leight	03-03-1998
	A102	5,749,099		Voorhees	05-12-1998
	A103	5,821,468		Urella et al.	10-13-1998
	A104	5,835,609		LeGette et al.	11-1998
	A105	5,860,166		Ritts	01-19-1999
	A106	5,887,286		Waldron	03-30-1999
	A107	5,898,945		Weiser	05-04-1999
	A108	5,943,703		Avila, Jr.	08-31-1999
	A109	548,738		Ballard	10-29-1895
	A110	6,016,574		Chen	01-25-2000
	A111	6,029,282		Buschman	02-29-2000
	A112	6,055,672		Natvig	05-02-2000
	A113	6,065,157		Felman	05-23-2000
	A114	6,104,824		Ito	08-15-2000
	A115	6,332,223	B1	Le Gette et al.	12-25-2001
	A116	6,499,146	B2	Bavetta et al.	12-31-2002
	A117	6,502,247		Le Gette et al.	01-07-2003
	A118	6,502,248		Le Gette et al.	01-07-2003
	A119	6,735,784		Isom et al.	05-18-2004
	A120	6,744,901		Ito et al.	06-01-2004
	A121	804,731		Keller	11-1905
	A122	869,741		Seitzman	10-1907
	A123	932,487		Melio	08-1909
	A124	953,623		Keller	03-29-1910
	A125	D301,477		Storyk	06-06-1989
	A126	D375,825		Whidden	11-26-1996
	A127	D390,564		Savona	02-10-1998
	A128	D473,539		O'Leary	04-22-2003

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

Please type a plus sign (+) inside this box → +

PTO/SB/08A (08-00)

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				Complete if Known			
				Application Number		10/638,554	
				Filing Date		August 12, 2003	
				First Named Inventor		Teresa S. Healy	
				Group Art Unit		3765	
				Examiner Name		Unassigned	
Sheet	4	of	5	Attorney Docket Number		GRAY033/00US	

FOREIGN PATENT DOCUMENTS							
Examiner Initials*	Cite No. ¹	Foreign Patent Document			Name of Patentee or Applicant of Cited Document	Date of Publication of Cited Document MM-DD-YYYY	T ⁴
		Office ¹	Number ²	Kind Code ³ (if known)			
	B1	CA	2180036		Verbon	01-04-1997	
	B2	CH	294003		Trieb	01-04-1954	
	B3	DE	2516709	A1	Gehörschutzer	10-28-1976	
	B4	DE	29800973	U1	UVEX Sports GmbH & Co.	04-23-1998	
	B5	DE	29812652	U1	Clasing	03-25-1999	
	B6	DE	4422767	A1	Optac GmbH	01-11-1996	
	B7	EP	0745364	A2	Le Gette et al.	4-12-1996	
	B8	FR	2 536 253	A	Planche	05-25-1984	Abstract
	B9	FR	2 532 838	A1	Schiess	03-16-1984	Abstract
	B10	FR	1 353 524		Silvain	01-20-1964	
	B11	FR	2538204	A1	Decrozant	12-20-1982	
	B12	GB	1327614		Wormald Brothers Industries Limited	08-22-1973	
	B13	GB	2062478	A	Gardner, et al.	05-28-1981	
	B14	GB	2320885	A	Parikh	07-08-1998	
	B15	GB	2339642	A	Yang	02-02-2000	
	B16	JP	10257581		Sony Corp.	08-15-2000	Abstract
	B17	JP	6-351090	A	Sony Corp.	12-22-1994	Abstract
	B18	JP	63-20232			06-06-1988	
	B19	JP	62-21016			02-07-1987	
	B20	JP	60-244188	A	Yamauchi, et al.	12-04-1985	
	B21	JP	60-29141			02-27-1985	
	B22	JP	63-21972		Hikari Trade Kabushiki Kaisha	08-25-1989	Abstract
	B23	JP	57-205216		Kikumori Kawabata	12-27-1982	Yes (Portion)
	B24	JP	2002-11036	A	Kikumori Kawabata	01-15-2002	Abstract
	B25	JP	6-41720			06-03-1994	Concise Explanation of Relevance
	B26	JP	58-15618			01-31-1983	
	B27	JP	59-129815			08-31-1984	
	B28	JP	10-85251		Kobayashi	04-07-1998	Abstract
	B29	JP	11-229223		Tada	08-24-1999	Abstract
	B30	WO	01/76402	A1	The Gorgonz Group	10-18-2001	
	B31	WO	94/09734		Sakharov	05-11-1994	
	B32	WO	97/48296		Falco	12-24-1997	
	B33	WO	98/07062		Marano	02-19-1998	
	B34	WO	98/31314		Natvig	07-23-1998	
	B35	WO	02/083044		Natvig	10-24-2002	
	B36	WO	03/086124		Faussett, et al.	10-23-2003	
	B37	WO	92/17079		Kimbrough	10-15-1992	

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3).

² For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document.

³ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible.

⁴ Applicant is to place a check mark here if English language Translation is attached.

Please type a plus sign (+) inside this box → +

PTO/SB/08A (08-00)

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				Complete if Known	
				Application Number	10/638,554
				Filing Date	August 12, 2003
				First Named Inventor	Teresa S. Healy
				Group Art Unit	3765
				Examiner Name	Unassigned
Sheet	5	of	5	Attorney Docket Number	GRAY033/00US

OTHER MATERIALS			
Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ¹
	C1	1999-2000 Catalog, "Accessory Goods," Nitty Company, Ltd., 4 pgs.	
	C2	Advertisement: The "PODZ" ear warming eye glass retainer, Shred Alert Products of Hood River, Oregon, 5 pgs.	

Examiner Signature		Date Considered	
--------------------	--	-----------------	--

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

229743 v1/RE
4x9r01!.DOC

¹ Applicant is to place a check mark here if English language Translation is attached.

229063 v1/RE
4wqv01!.DOC